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9  
10 **BEFORE THE**  
**BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 928-A

13 **KARL THEOPHIL BLAUFUSS**  
18271 Sanders Drive  
14 Lake Elsinore, CA 92530

**A C C U S A T I O N**

15 Civil Engineer License No. C 16501  
16 Geotechnical Engineer License No. GE 149

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity  
21 as the Executive Officer of the Board for Professional Engineers and Land Surveyors,  
22 Department of Consumer Affairs.

23 2. On or about August 18, 1966, the Board for Professional Engineers and Land  
24 Surveyors issued Civil Engineer License Number C 16501 to Karl Theophil Blaufuss  
25 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on June 30, 2011, unless renewed.

27 3. On or about September 9, 1987, the Board for Professional Engineers and Land  
28 Surveyors issued Geotechnical Engineer License Number GE 149 to Karl Theophil Blaufuss

(Respondent). The Geotechnical Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

### **JURISDICTION**

4. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 6775 of the Code states, in pertinent part:

....

[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

....

(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

....

(h) Who violates any provision of this chapter.

### **STATUTORY PROVISIONS**

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

1 8. Section 6735 of the Code states:

2 (a) All civil (including structural and geotechnical) engineering plans,  
3 calculations, specifications, and reports (hereinafter referred to as "documents")  
4 shall be prepared by, or under the responsible charge of, a licensed civil engineer  
5 and shall include his or her name and license number. Interim documents shall  
6 include a notation as to the intended purpose of the document, such as  
7 "preliminary," "not for construction," "for plan check only," or "for review only."  
8 All civil engineering plans and specifications that are permitted or that are to be  
9 released for construction shall bear the signature and seal or stamp of the licensee  
10 and the date of signing and sealing or stamping. All final civil engineering  
11 calculations and reports shall bear the signature and seal or stamp of the licensee,  
12 and the date of signing and sealing or stamping. If civil engineering plans are  
13 required to be signed and sealed or stamped and have multiple sheets, the  
14 signature, seal or stamp, and date of signing and sealing or stamping shall appear  
15 on each sheet of the plans. If civil engineering specifications, calculations, and  
16 reports are required to be signed and sealed or stamped and have multiple pages,  
17 the signature, seal or stamp, and date of signing and sealing or stamping shall  
18 appear at a minimum on the title sheet, cover sheet, or signature sheet.

11 (b) Notwithstanding subdivision (a), a licensed civil engineer who signs  
12 civil engineering documents shall not be responsible for damage caused by  
13 subsequent changes to or uses of those documents, if the subsequent changes or  
14 uses, including changes or uses made by state or local governmental agencies, are  
15 not authorized or approved by the licensed civil engineer who originally signed the  
16 documents, provided that the engineering service rendered by the civil engineer  
17 who signed the documents was not also a proximate cause of the damage.

15 9. Section 6735.5 of the Code states:

16 The use of the word "certify" or "certification" by a registered professional  
17 engineer in the practice of professional engineering or land surveying constitutes  
18 an expression of professional opinion regarding those facts or findings which are  
19 the subject of the certification, and does not constitute a warranty or guarantee,  
20 either expressed or implied.

### 21 COST RECOVERY

20 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
21 administrative law judge to direct a licentiate found to have committed a violation or violations of  
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
23 enforcement of the case.

### 24 FIRST CAUSE FOR DISCIPLINE

25 (Negligence in the Practice of Professional Engineering)

26 11. Respondent is subject to disciplinary action under Code section 6775(c) in that he  
27 was negligent in the practice of professional engineering for failing to use the care ordinarily  
28

1 exercised by a professional engineer in the discharge of his professional obligations in the  
2 preparation of certifications for manufactured housing. The circumstances are as follows:

3 12. On or about July 27, 2006, A.A. filed a complaint with the Board concerning  
4 Respondent's engineering work. A.A. alleged that Respondent issued letters certifying that  
5 foundations built by Perma-Brace, a company that builds foundations for manufactured houses,  
6 met the Housing and Urban Development (HUD) requirements (HUD-compliant),<sup>1</sup> without doing  
7 the necessary engineering work to make that determination and with the intent to defraud the  
8 Federal Housing Authority (FHA), lenders, and purchasers into believing the foundation was  
9 HUD-compliant. Following the complaint, an investigation was conducted by a DOI investigator.

10 13. On or about July 1, 2008, the investigator interviewed Respondent at his firm, KS  
11 Consulting, regarding the allegations. Respondent admitted that he performed work and  
12 continued to perform work for Perma-Brace. Respondent admitted that Perma-Brace actually  
13 installed the foundations and anchored the manufactured homes to them. Respondent also  
14 admitted that he did not perform any engineering work or calculations. Respondent stated that  
15 the actual engineering work was not needed or required. Respondent admitted that he simply  
16 certifies that the home is "properly founded." When asked how he can certify that the foundation  
17 is HUD-compliant if he does not perform any of the work himself and does not physically go to  
18 the site, Respondent stated that the staff at Perma-Brace act as his agents, who perform the  
19 inspections of the foundation, including crawling underneath the manufactured homes.  
20 Respondent admitted that he issued certifications based on the information provided to him by the  
21 Perma-Brace staff. Although the staff members from Perma-Brace were not engineers,  
22 Respondent emphasized that the work did not require an engineer. Respondent stated that Perma-  
23 Brace acted as his "eyes and ears." Respondent stated that the engineering was done by someone  
24 at the initial stage of the process when the manufactured home was first brought to its location.

25  
26 <sup>1</sup> In order to obtain an FHA loan, the owner of the property is required to submit a letter  
27 signed and stamped by a professional engineer certifying that the foundations supporting the  
28 house meet all the requirements of the HUD Permanent Foundation Guide for Manufactured  
Housing dated September 1996.

1           14. On or about July 17, 2008, the investigator conducted a follow-up interview with  
2 Respondent. Respondent provided copies of various condition certifications stamped with  
3 Respondent's engineer stamps and again confirmed that he did not go out to each home to  
4 personally inspect the foundation. Respondent admitted that he relied on Perma-Brace staff to  
5 crawl under the home to do the inspection. Respondent stated that he was confident in Perma-  
6 Brace's abilities and that he does not perform any engineering calculations to certify that the  
7 foundation is in compliance. In one of the certification letters provided by Respondent to the  
8 investigator, Respondent stated the following:

9                   The foundation system and the attachment system meet requirements of  
10                  HUD/FHA Standards.

11                  This TYPE ONE permanent foundation system meets the structural  
12                  requirements and requirements of local building codes, ordinances and  
13                  requirements. The permanent foundation is in compliance with HUD's Permanent  
14                  Foundation Guide for Manufactured Housing dated September 1996.

15           15. The other certification letters provided by Respondent to the investigator stated  
16 identical or similar language. Respondent also gave the investigator an invoice covering the  
17 period of January through March 2008. Respondent's "fee for certification" is \$50.00. If  
18 Respondent was required to personally go out to the property, the "fee" was \$150.00.  
19 Respondent did not go to 29 of the sites that he certified, and instead relied on Perma-Brace's  
20 inspection of its own work.

#### 21                                   **SECOND CAUSE FOR DISCIPLINE**

22                                   (Violation of Provision of the Chapter)

23           16. Respondent is subject to disciplinary action under Code section 6775(h), in that he  
24 violated Code section 6735 by failing to perform the necessary engineering work before forming  
25 a professional opinion in order to issue certifications and to sign and seal them, as is set forth  
26 above in paragraphs 12 through 16 above, which are incorporated herein by reference.  
27  
28

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a decision:

1. Revoking or suspending Civil Engineer License Number C 16501, issued to Karl Theophil Blaufuss;
2. Revoking or suspending Geotechnical Engineer License Number GE 149, issued to Karl Theophil Blaufuss;
3. Ordering Karl Theophil Blaufuss to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: August 23, 2010

Original Signed

DAVID E. BROWN  
Executive Officer  
Board for Professional Engineers and Land Surveyors  
Department of Consumer Affairs  
State of California  
*Complainant*

SD2010800261